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PTQ6239

RELEASED IN PART
B1, 1.4(B), 1.4(D), B6

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ACTION WHA-00

INFO	LOG-00	NP-00	AID-00	AMAD-00	CIAE-00	INL-00	SRPP-00
	EB-00	VC-00	H-01	TEDE-00	INR-00	IO-00	JUSE-00
	L-00	AC-01	NSAE-00	NSCE-00	OIC-02	OMB-01	OPIC-01
	PC-01	PM-00	PRS-00	ACE-00	P-00	SP-00	SS-00
	STR-00	TRSE-00	T-00	USIE-00	DTC-00	PMB-00	PRM-01
	DRL-02	G-00	NFAT-00	SAS-00	SWCI-00	/010W	

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R 282225Z JUN 01
FM AMEMBASSY BOGOTA
TO SECSTATE WASHDC 2340
INFO JOINT STAFF WASHDC
SECDEF WASHDC
USCINCSO MIAMI FL
AMEMBASSY CARACAS
AMEMBASSY QUITO
AMEMBASSY LIMA
AMEMBASSY LA PAZ

C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 005864

E.O. 12958: DECL: 6/22/11

TAGS: PHUM, MASS, CO
SUBJECT: SANTO DOMINGO CASE: JUDICIAL UPDATE

REFS: A) BOGOTA 2164 B) BOGOTA 504
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CLASSIFIED BY AMBASSADOR ANNE W. PATTERSON; REASONS 1.5
(B, D).

1. (C) SUMMARY: THE INVESTIGATION BY THE MILITARY JUDICIARY INTO THE ROLE THE COLOMBIAN AIR FORCE (FAC) MAY HAVE PLAYED IN THE 1998 BOMBING WHICH KILLED 17 CIVILIANS IN SANTO DOMINGO, ARAUCA DEPARTMENT, HAS MOVED FROM THE INVESTIGATIVE TO THE PENAL PHASE. THE ATTORNEY GENERAL'S OFFICE (PROCURADURIA GENERAL) HAS FILED ADMINISTRATIVE CHARGES AGAINST THREE MEMBERS OF THE FAC AND ONE ARMY MAJOR, AND A FIRST INSTANCE MILITARY JUDGE RECENTLY ORDERED THE SAME THREE FAC OFFICIALS DETAINED, INDICTING THEM ON CRIMINAL CHARGES. THIS IS A TURN-AROUND FROM THE INITIAL AIR FORCE

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: OSCAR J OLSON
DATE/CASE ID: 20 APR 2005 200500650

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DECISION TO SIMPLY FILE THE INVESTIGATION AWAY, AND MAY DEMONSTRATE GREATER INDEPENDENCE AND OBJECTIVITY ON THE PART OF THE MILITARY JUDICIARY. END SUMMARY.

THE FACTS

2. (U) ON DECEMBER 13, 1998, UNITS OF THE COLOMBIAN SECURITY FORCES WERE ENGAGED IN COMBAT WITH FARC UNITS NEAR THE TOWN OF SANTO DOMINGO IN THE DEPARTMENT OF ARAUCA. THE FAC PROVIDED AIR SUPPORT TO THE OPERATION, AND A FAC HELICOPTER APPARENTLY DROPPED A CLUSTER BOMB IN THE AREA, KILLING 17 CIVILIANS AND INJURING A FURTHER 42. INITIALLY, THE MILITARY CLAIMED IT DROPPED THE BOMB ALMOST ONE MILE OUTSIDE THE TOWN, NOT ON IT AS
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THE RESIDENTS CLAIM.

3. (C) THEORIES AS TO WHAT ACTUALLY OCCURRED AROUND. THOSE SEEKING TO EXCULPATE THE FAC SUGGEST THE FARC PLANTED A BOMB IN A TRUCK IN THE CENTER OF TOWN LEADING TO THE CIVILIAN CASUALTIES. SOME EXPERTS ARGUE HOWEVER THAT EVIDENCE INDICATES THERE WAS NO BOMB IN THE TRUCK. ALTERNATIVELY, IT IS SUGGESTED THAT THE FAC DROPPED THE BOMB, BUT THAT IT DID NOT EXPLODE UPON IMPACT. THE FARC THEN TOOK THE BOMB INTO THE TOWN AND DETONATED IT, BLAMING THE AIR FORCE FOR THE DAMAGE. A THIRD POSSIBILITY IS THAT THE FAC WAS GIVEN INACCURATE GUIDANCE ON WHERE TO DROP THE BOMB. REGARDLESS OF HOW EVENTS ACTUALLY UNFOLDED, THE CLUSTER BOMB IN QUESTION WAS DESIGNED TO BE DROPPED FROM A FIXED WING AIRCRAFT, NOT FROM A HELICOPTER.

MILITARY JUDGE ORDERS THREE FAC MEMBERS DETAINED

4. (SBU) ON JUNE 15, A FIRST INSTANCE MILITARY JUDGE RULED THAT FAC MEMBERS CAPTAIN CESAR ROMERO PRADILLA, LIEUTENANT JOHAN JIMENEZ VALENCIA, AND FLIGHT TECHNICIAN HECTOR MARIO HERNANDEZ BE PLACED IN PREVENTIVE DETENTION FOR THEIR INVOLVEMENT IN THE BOMBING. JUDGE LUZ MONICA OSTOS ROJAS CHARGED THE THREE WITH NEGLIGENT HOMICIDE AND SIMPLE ASSAULT, AND SET THEM FREE ON BAIL, BUT DID NOT CHARGE THEM WITH DAMAGE TO PERSONAL PROPERTY. POST UNDERSTANDS THE THREE ARE UNDER HOUSE ARREST, NOT IN PRISON.

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ATTORNEY GENERAL INDICTS FOUR

5. (C) [REDACTED] TOLD POLOFF THAT THE
ATTORNEY GENERAL IS STILL LOOKING INTO THE POSSIBILITY
OF REQUESTING THAT THE CRIMINAL CASE BE TRANSFERRED
FROM THE MILITARY JUSTICE SYSTEM TO THE CIVILIAN
JUDICIARY, AND THAT THE PROCURADURIA HAD FILED ITS OWN
CHARGES AGAINST THE THREE FAC MEMBERS NAMED ABOVE, AS
WELL AS [REDACTED]

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[REDACTED] (NOTE: THE PROCURADURIA CAN IMPOSE
ADMINISTRATIVE SANCTIONS UP TO DISMISSAL, BUT CANNOT
FILE CRIMINAL CHARGES. END NOTE.) THE CHARGES WERE
FILED ON OCTOBER 27, 2000, AND THE DECISION ORDERING
THE COLLECTION OF EVIDENCE WAS ISSUED ON JANUARY 29 OF
THIS YEAR. THE EVIDENCE COLLECTION PHASE OF THE CASE
MUST BE COMPLETED BY JANUARY 29, 2002. THE ATTORNEY
GENERAL'S DELEGATE FOR HUMAN RIGHTS HAS 55 DAYS AFTER
THE LATTER DATE TO DECIDE THE CASE, AND IF HIS DECISION
IS APPEALED, THE CASE WILL BE SENT TO THE TWO ATTORNEY

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C O N F I D E N T I A L SECTION 02 OF 02 BOGOTA 005864

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GENERAL'S DELEGATES WHO HEAR ALL APPEALS.
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8. (U) ACCORDING TO PRESS REPORTS, ROMERO CLAIMED IN HIS TESTIMONY TO JUDGE OSTOS THAT THE SKYMASTER GAVE HIM THE COORDINATES FOR THE BOMBING RUN, AND THAT ARMY GROUND TROOPS ORDERED THE DROPPING OF THE BOMB. HE

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ADMITS DROPPING THE BOMB, BUT BELIEVES HE SHOULD NOT BE

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HELD RESPONSIBLE FOR THE 17 DEATHS SINCE HE WAS ONLY FOLLOWING ORDERS. "I WILL NOT BE A SCAPEGOAT," HE REPORTEDLY TOLD JUDGE OSTOS. ROMERO WANTS OSTOS TO TAKE TESTIMONY FROM [REDACTED] BELIEVING IT WILL EXONERATE HIM.

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COMMENT

9. (C) MEDIA SCRUTINY HELPED KEEP THE FAC FOCUSED ON THE CASE. THE FACT THAT THE INVESTIGATION INTO THE 1998 INCIDENT WAS REOPENED AFTER INITIALLY BEING FILED AWAY DEMONSTRATES A WILLINGNESS ON THE PART OF THE GOC TO SEE THAT JUSTICE IS DONE IN THIS CASE. THE RECENT DECISION BY JUDGE OSTOS MAY ALSO HELP THE NEW MILITARY JUSTICE SYSTEM INCREASE ITS CREDIBILITY IN THE EYES OF OUTSIDE OBSERVERS, DEMONSTRATING THAT MILITARY PERSONNEL ARE CAPABLE OF PROSECUTING THEIR OWN. POST WILL CONTINUE TO MONITOR FURTHER DEVELOPMENTS.

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